

E-002/CG-88-489DENYING PETITION FOR RECONSIDERATION AND DENYING PETITION
FOR RECONSIDERATION, REHEARING, AND CLARIFICATION, ON THE MERITS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of the Joint Petition of Dakota County and Winona County for an Order Resolving Disputes Relating to Purchases by Northern States Power Company of Electric Power from the Operation of Solid Waste Recovery Facilities to be Located in Dakota and Winona Counties, Minnesota

ISSUE DATE: September 26, 1989

DOCKET NO. E-002/CG-88-489

ORDER DENYING PETITION FOR RECONSIDERATION AND DENYING PETITION FOR RECONSIDERATION, REHEARING, AND CLARIFICATION, ON THE MERITS

PROCEDURAL HISTORY

On July 7, 1989 the Commission issued its ORDER RESOLVING DISPUTES REGARDING TERMS OF CONTRACT BETWEEN UTILITY AND QUALIFYING FACILITIES. That Order resolved specified disputes between two future independent power producers, Dakota and Winona Counties, and Northern States Power Company, regarding the terms to be included in power purchase contracts they were negotiating.

On August 4, 1989 the Counties filed a Petition for Reconsideration of the July 7 Order. On the same date, Northern States Power Company (NSP or the Company) filed a Petition for Reconsideration, Rehearing, and Clarification.

Under Minn. Stat. § 216B.27, subd. 4 (1988), any application for rehearing not granted within 20 days of filing is deemed denied. On August 24, 1989 the Commission granted both petitions for purposes of affording them adequate review, stating such review would require more than the 20 day statutory period.

The petitions came before the Commission on the merits on September 6, 1989.

FINDINGS AND CONCLUSIONS

The Commission finds that the parties' requests for reconsideration and rehearing raise no new issues and identify no issues requiring further consideration. Neither did any party offer new evidence which was either previously unavailable or sufficiently probative to require further evidentiary proceedings.

The Commission finds that NSP's request for clarification of the date by which the Counties' qualifying facilities must begin commercial operation, or of what effect a delay in beginning operation would have on the Counties' rights under the July 7 Order, to be premature. The commercial operation date was not identified as a disputed contract term. It was not addressed in evidentiary hearings. It was not briefed and argued by the parties.

Furthermore, the issue will not arise at all if, under the terms of the contract, the Counties are able to begin commercial operation within six months of the date they and the Company mutually set as the date of commercial operation. Under these circumstances, the Commission does not consider the commercial operation date issue ripe for review.

ORDER

1. The Counties' Petition for Reconsideration and the Company's Petition for Reconsideration, Rehearing, and Clarification are hereby denied.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)